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crease of tribal business following allotment, the Bureau of Indian Affairs pressed for the formation of a supplementary executive body. At Klamath the need for such a body may have been underscored by the abuse of the common council in the partisan sessions called by the Kirk and Brown factions. Thus, 1908 saw the introduction of an executive body, called the tribal council, to function in addition to the occasional councils. Initially, it was made up of twelve men, six from each End of the reservation, and with communal representation: its membership included seven Klamath, three Modoc, and one each from the Pit River and Paiute. Since it proved difficult to maintain a quorum, the number was subsequently reduced to eight members.

In 1927, the factionalism which had earlier brought into question the legitimacy of the common council now touched the tribal council; for in that year a dissident group elected a rival body and claimed that it had superseded the existing council. Their action placed in jeopardy the efficient administration of the tribal resources, and the Commissioner of Indian Affairs consequently insisted that matters be set upon a constitutional footing. After considering several tribal charters submitted to them as models, the Klamath in 1929 enacted their own constitution and by-laws for the executive body, now restyled the Business Committee. Its six members, three from each End, were to consider ". . . business matters pertaining to the Tribe. [Matters] of great importance to the Tribe and which the Business Committee believe should be referred to a general tribal council" might be so referred by a vote of five members of the Committee, with the consent of the Superintendent.[2]

Once more, in 1950, envisaging a time when the tribal government would have full control over the common estate, a new constitution was enacted, this time for the General Council. By its terms, all powers were vested in that body, made up of all adult tribal members. In addition, an Executive Committee was designated, to be composed of the eight members—the number had again been increased—of the erstwhile Business Committee, together with the President and Secretary of the General Council. To this new committee, the General Council was authorized to delegate powers, although as matters turned out it did so only reluctantly and after long delay. In turn, by appropriate vote

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In turn, by appropriate vote
*648 within ninety days, the General Council might—and on occasion
*659 did—reverse the action of its Executive Committee. Finally, by a
• 642 petition of at least one-fourth of the eligible voters, an action of
642 the General Council might be submitted to a referendum of tribal
[666] members.[3]

In the succession of tribal bodies, the interest of the government was not solely the convenience of securing formal sanction in property matters concerning the common interest of enrolled
[182] members. The tribal government was to provide as well a regular channel by which the government might assess tribal opinion, consult with leaders, and announce programs; and it was to furnish tribal members with experience in responsible citizenship. Through this instrument, a representative body was to be articulated with Bureau administration, its decisions being rendered concrete in official minutes and subjected to review by higher administrative echelons.

Tribal rule is municipal in character, as seen in the restricted scope of its powers.[4] The narrow administrative domain with which the Klamath executive dealt is suggested by the names of the permanent adjuncts of the Executive Committee, the Tribal Loan Board and the Enrollment Committee. In 1947, some fifteen tribal members and one other were employed in General Council and Loan Board activities. By contrast, the Superintendent employed 123 persons, including 31 tribal members and 40 Indians from other groups, in the administration of agency, health, extension, law and order, roads, forestry and grazing, and irrigation.[5] Over these areas the Executive Committee might exercise a veto by cutting from the proposed Agency budget tribal funds allocated to an unwanted item. In this way, the hospital, bull pool, and tribal herd have occasionally been threatened. Ordinarily, however, the Executive Committee took no positive action in the development of a budget. Understandably, Klamath efforts to appoint a tribal member to serve as watchdog over Agency administration were not kindly received.

In the formulation of general policy, the executive drew upon
[693] the advice of the tribal attorney, as well as upon unofficial counsel, both sought and volunteered. All major policy decisions required approval by the General Council and were subject to review within the Bureau of Indian Affairs and the Department

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of the Interior. An essential communicatory function was served by the delegations now sent annually to Washington, to discuss policy matters with Bureau officials and with members of Congress. Elected by the General Council, delegates were generally instructed by that body and by the Executive Committee on the official position to be taken. These positions of trust and power were frequently filled by members of the Executive Committee.

By contrast with administrative and executive functions, the regulatory functions which Eisenstadt terms juridical-cultural found little place within the formal structure.[6] For the exercise of legitimate force lay rather with the Superintendent than the Tribe, and even Indian police and courts, while they endured, reflected his authority. For well over a generation during the last period of tribal rule, after "Indian custom" marriage had lost legal status there were no traditional practices requiring special adjudication. In practice, neither expulsion from the Tribe nor curtailment of membership privileges has been meted out as punishment for offenses against the tribal body. At least two tribal members have been re-elected to office despite the common knowledge that they had served prison sentences for felony, a record that by formal regulation should have disqualified them. Presiding over a territory, the Tribe was particularly lax, when not indeed impotent, in exercising control over absentee members. Indeed, the sole coercion brought to bear, and that from a partisan vantage only, has been the withholding of benefits under distribution.

In the General Council there resided undifferentiated tribal powers, and consequently this body best symbolized the continuity of tribal government. For the general membership it simultaneously embodied their tribal identity and functioned as the proper arena for public debate. It was in this assembly, rather than in the executive bodies, that many preferred to see issues discussed and decisions rendered. Reluctance to delegate powers to the executive under the 1950 constitution, which had the result of deferring that act for a year and one-half, was not merely an expression of factional distrust but also voiced a continued Klamath preference for direct and informal consensus in tribal affairs.[7]

Tribal membership was, as we have seen, only one of several

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pro rata apportionment of the tribal assets. Toward this end, he turned increasingly for support toward the absentee membership.

Thus it was that in 1945, returned to Washington as a delegate, Crawford sought passage of a bill that combined some of the aims of the final settlement proposals with federal purchase of the tribal tracts, which would then be established as national forests, and with the liquidation of other properties. This met opposition from the dominant tribal party, by this time under the leadership of Boyd Jackson, Dice Crain, and Jesse Lee Kirk. In successive versions, the proposed legislation was the subject of hearings conducted both in Washington and on the reservation. As an outcome of suggestions made then, Supt. Bert. G. Courtright prepared a trial bill permitting voluntary withdrawal of competent members, each of whom was to be paid a portion of his share in the tribal estate. A shift of political winds now swept Crawford, who became the chief proponent of this bill, back into political ascendancy.

At this juncture, Seldon Kirk, the respected chairman of the General Council, intervened to secure establishment of an extraordinary special committee of those "who believe in the perpetuation of the Klamath Reservation." Among the eight members, in addition to Kirk himself, were Jackson and several of his adherents. The committee drew up a new constitution for the Tribe, designed to provide a structure satisfactory for self-government over a proposed transition of two decades. It was adopted in 1950, but only after being linked with the voluntary withdrawal bill; and thus for a time both parties rested satisfied.

From a long-range view, it is noteworthy that Crawford had turned from a plan for an enduring tribal cooperative to one directed to the piecemeal withdrawal of members who wished to sever tribal connections. In their turn, the former advocates of final settlement had become the champions for the preservation of the tribal body.

Further attempts by Crawford to amend the voluntary withdrawal bill and other circumstances delayed action on it until 1953, by which time the government had embarked upon a program seeking to terminate federal supervision over a number of Indian reservations. Chief among them was that at Klamath, for which terms were proposed similar to those outlined for the